XI-HC—8

(15)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A(C) 996 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
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**M.A. (C) No.996/2007**

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| **APPELLANT/ CLAIMANT** | | Sapan Dewangan, s/o Shri N.K. Dewangan, aged about 33 years, Occupation Advocate, R/o Orana Camp Adawal, P.O. Adawal, Tahsil – Jagdalpur, Distt. Bastar (C.G) |

***VERSUS***

| | | |
|---|---|---|
| RESPONDENTS | 1. | Krishna Kumar Netam, s/o late Ramlal Netam, aged about 26 years, R/o D.N.K. Colony, Kondagaon, P.O. Kondagaon, Distt. Bastar (C.G) |
| | 2. | Lamps Manager, Kondagaon, Bastar, Kondagaon, Distt. Bastar (C.G) |
| | 3. | National Insurance Company, Upper Storey of Central Bank, near R.M.S. Office, Jagdalpur, Distt. Bastar (C.G.) |

**Appeal under Section 173 of Motor Vehicle Act, 1988**

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**Appearance:**

Shri Manoj Mishra, counsel for the appellant.

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**DB.: HON'BLE SHRI L.C. BHADOO, J. &**
**HON'BLE SHRI SUNIL KUMAR SINHA, J.**

**ORAL ORDER**
(03.09.2007)

**L.C. Bhadoo, J:**

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A(C) No.996 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश -2- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
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This is claimant's appeal filed u/s 173 of the Motor Vehicles Act for enhancement of the award, who met with an accident. The brief facts are that on 03.3.2005 the claimant was going on a motor bike bearing Regn. C.G.17 B 9901 from Vishrampuri to Jagdalpur. At about 8.30 p.m., in the night when he stopped his Motor Cycle in front of Sethiya Hotel at Kondagaon, one Metadoor bearing Regn.No.C.G. 17 Z.B./0194 which was being driven by respondent no.1 rashly and negligently, dashed against the Motor Cycle, as a result of which, the claimant sustained injuries. His left humorous bone was fractured and there was dislocation scapular bone joint. He was immediately taken to Kondagaon Hospital where after giving primary treatment, he was shifted to Maharani Hospital Jagdalpur. Thereafter, he was shifted to Raipur Hospital where Dr.Naveen Gupta conducted operation on him on 8.3.2005 and the claimant was discharged on 9.3.2005.

The learned tribunal has passed an award to the tune of Rs.1,31,656/- as follows:

Rs.50,000/- for pain and suffering, mental agony,
Rs.37,656/- for medical and travelling expenses,
Rs.36,000/- for loss of income for three months,
Rs. 3,000/- for special diet
Rs. 5,000/- for other expenses.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A(C) No. 996 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश -3- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
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We have heard learned counsel for the appellant and perused the records as well as the award of the tribunal.

In Para 16 of the award, the learned tribunal has mentioned that during cross examination, Dr.Naveen Gupta, who treated and operated the claimant, has stated that the claimant is young man of 32 years. He has admitted that the claimant being young man, in comparison to elderly person, there was fast reunion of bones. He has also admitted that there is possibility of a good result, if proper treatment is given. He has further admitted that writing capacity of the claimant was not effected because he sustained fracture on the left hand, therefore, looking to the nature of injuries and medical evidence, we are of the considered opinion that the compensation given on all heads mentioned above, is just and reasonable.

In the matter of ***State of Haryana and Anr. V. Jasbir Kaur and Ors. (2003) 7 SCC 484*** the Apex Court held that "It has to be kept in view that the Tribunal constituted under the Act as provided in Section 168 is required to make an award determining the amount of compensation which is to be in the real sense "damages" which in turn appears to it to be "just and reasonable". It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. But at the same time it has to be borne in mind that the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** M.A(C) 996 **सन् 2007**

**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश -4- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
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compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that the compensation must be "just" and it cannot be a bonanza; not a source of profit; but the same should not be a pittance. The courts and tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be "just" compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be just" a wide discretion is vested in the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression "just" denotes equitability, fairness and reasonableness, and non-arbitrary. If it is not so it cannot be just."

Having considered the material on record, the reasoning given by the Tribunal as also the above decision of the apex Court and after considering the totality of the circumstances,

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** M.A(L) No. 996 **सन् 2007**

**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश 5- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
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| | nature of injuries sustained by the claimant and the time taken in recovery, we are of the considered opinion that the compensation amount awarded in favour of the claimant is just and reasonable and it is not inadequate in any manner. Therefore, this appeal is devoid of merit. The same is liable to be dismissed and it is dismissed at the motion stage.<br><br>**Sd/-**<br>**L.C. Bhadoo**<br>**Judge**<br><br>**Sd/-**<br>**Sunil Kumar Sinha**<br>**Judge** | |

/Rao/